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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

JEROME SCHMIDT ) Docket No. A 18-CA-088 DAE  
 )  
vs. ) Austin, Texas  
 )  
UNITED STATES OF AMERICA ) October 24, 2019

TRANSCRIPT OF STATUS CONFERENCE  
BEFORE THE HONORABLE DAVID A. EZRA

APPEARANCES:

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Proceedings reported by computerized stenography,  
transcript produced by computer.

10:18:33 1 without experts. Because that's plenty of time. But  
10:18:40 2 let's try the December 16th, if we could do it.

10:18:42 3 MR. GILLIGAN: Yes, Judge.

10:18:45 4 MR. ALSAFFAR: We will.

10:18:45 5 THE COURT: Okay. Now, since you're all here,  
10:18:47 6 you could go back to your -- since we're all here, are  
10:18:50 7 there any major legal issues that you could foresee, or  
10:18:55 8 expert issues, or major motions in limine with respect to  
10:18:59 9 the damages?

10:18:59 10 MR. ALSAFFAR: Your Honor, no. And we've had a  
10:19:01 11 lot of bench trials, motions in limine that there's really  
10:19:05 12 no need. I don't --

10:19:07 13 THE COURT: No. There isn't. And, you know, I  
10:19:09 14 had the last trial, that latex trial I was just talking  
10:19:13 15 about, everybody's filing motions in limine. There was no  
10:19:15 16 jury and, you know, so I said, look, let's just bring it  
10:19:20 17 up at the time the evidence is offered.

10:19:24 18 MR. ALSAFFAR: That's the way we usually handle  
10:19:25 19 it in bench trials, your Honor. Just makes sense because  
10:19:28 20 that's whole purpose of limine, to keep it out of the jury  
10:19:31 21 before it's prejudiced, and you're obviously not going to  
10:19:33 22 prejudice yourself.

10:19:34 23 THE COURT: No.

10:19:35 24 MR. ALSAFFAR: The only question we have from the  
10:19:37 25 plaintiff's side, your Honor, especially because we've

10:19:39 1 amped up and are very close to being ready for trial  
10:19:42 2 already is, I think it would be beneficial, if we could,  
10:19:47 3 to keep the dates that are already in play for the  
10:19:50 4 exchange of exhibits, deposition designations, et cetera.  
10:19:53 5 That would really help, I think, in preparation. And  
10:19:56 6 since we're already 70, 80 percent of the way there to  
10:19:59 7 keep those existing dates.

10:20:01 8 THE COURT: Yeah. I wasn't planning on changing  
10:20:02 9 the dates.

10:20:04 10 MR. ALSAFFAR: Okay. Thank you, your Honor.

10:20:04 11 THE COURT: Look, December 16th sounds like a  
10:20:10 12 long way from now. You're going to blink your eye and  
10:20:13 13 we're all going to be back in here if we go on December  
10:20:16 14 the 16th. It just flies.

10:20:34 15 There's the other thing. I doubt it's going to  
10:20:37 16 settle, the case you just saw. You're all experienced  
10:20:41 17 lawyers. You know the vibes going on here. I'm forcing  
10:20:46 18 them to try, but I'm not -- I'm not holding my breath.  
10:20:54 19 But if they do settle, I could slot you in there.

10:20:58 20 MR. ALSAFFAR: Okay. Do you have a sense, your  
10:21:02 21 Honor, of -- well, I was here for the back-and-forth. So  
10:21:07 22 I know there's no --

10:21:08 23 THE COURT: Yeah, you saw -- you heard what went.  
10:21:11 24 Look, you know, experienced lawyers -- and you're both  
10:21:15 25 experienced and very good lawyers -- you know, just like I

10:28:21 1 could get back. I actually took a train from Chicago to  
10:28:27 2 St. Louis when I had flew out of St. Louis. Can you  
10:28:32 3 believe that? It's crazy. But anything can happen.

10:28:37 4 All right. Anything else? Any other legal  
10:28:39 5 issues or anything you want to talk to me about other than  
10:28:42 6 our trial date?

10:28:44 7 MR. GILLIGAN: No, Judge.

10:28:46 8 MR. ALSAFFAR: No legal issues. Just to clear,  
10:28:47 9 so we're going to keep the original exhibit exchange --

10:28:50 10 THE COURT: Yeah. Those orders remain in effect  
10:28:53 11 because you thought, until you came in here this morning,  
10:28:55 12 you were going to go to trial on those days. So there's  
10:28:58 13 no excuse for people not being ready. And, you know, I  
10:29:00 14 have a lot of experience with moving dates and then, all  
10:29:09 15 of a sudden, people feel compelled to go try to do  
10:29:14 16 something they really didn't need to do, and then, we get  
10:29:16 17 into a bunch of arguments about that. So we'll leave the  
10:29:18 18 same dates. Everybody understood what they were.

10:29:20 19 MR. ALSAFFAR: Well, your Honor, since we're  
10:29:22 20 hear, is it okay if we just kind of go through some of the  
10:29:26 21 scheduling in terms of how you operate for the bench  
10:29:29 22 trial, what time you like to start for bench trial --

10:29:32 23 THE COURT: I will probably start at 9:00. I  
10:29:34 24 have no idea what hotel I'm going to be in. And you heard  
10:29:38 25 about the discussion about the traffic.